



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/581,405

03/05/2008

Sairos Safai

2003P16963

3762

24131 7590 10/19/2009
LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

EXAMINER

KOSLOW, CAROL M

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

10/19/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/581,405	Applicant(s) SAFAI, SAIROS	
	Examiner C. Melissa Koslow	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 9-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/1/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Applicant's election of Group I, claims 1-8 in the reply filed on 20 February 2009 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 9-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Acknowledgment is made of applicant's claim for foreign priority based on two applications filed in Europe on 4 December 2003. It is noted, however, that applicant has not filed a certified copy of either of the European applications as required by 35 U.S.C. 119(b).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "16" has been used to designate optical fiber (figures 2 and 6), fiber sensor (figure 1) and holder (figure 1). In addition, reference character "36" has been used to designate both a stop plate and a sealing ring (pg 15, lines 20-25).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: figure 4 has none of the reference discussed on page 14, line 19 through page 15, line 6. In addition reference number 28 discussed on page 15, line 15 is not in figure 6.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: reference number 44 in figure 6.

The drawings are objected to because the middle section of figure is so blurry that it cannot be determined what is being shown.

Art Unit: 1793

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The disclosure is objected to because of the following informalities: On page 10, line 28, the optical fiber is refereed to as “14”. The rest of the specification refers to the fiber as “16” and teaches “14” references to the water phantom. The composition of the optical cement is not defined in the specification and thus it is unclear what compositions applicant considers as the "optical cement" of the invention. Appropriate correction is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The subject matter of claim 5 is not found in the specification.

Art Unit: 1793

Claims 2 and 6 are objected to because of the following informalities: All occurrences of “sulfide” are misspelled in both claims. Appropriate correction is required.

Claims 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6-8 are indefinite since the composition of the “optical cement” is not defined in the claims or in the specification. Thus it is unclear what compositions applicant considers as the “optical cement” of the invention.

The Examiner is interpreting “optical cement” to be any transparent UV curable polymeric binder, such as polyesters and polymethyl methacrylates. This is one of the known and art recognized definitions for “optical cement”.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent 5,126,573.

Art Unit: 1793

This reference teaches a mixture of 20-100% $\text{Gd}_2\text{O}_2\text{S:Tb}$ and 0-80 wt% of $(\text{Zn,Cd})\text{S:Ag}$ and it teaches that this mixture can be in a bonding agent. This bonding agent is one used for forming an X-ray luminescent screen and acts as a binder for the mixture. The reference teaches the claimed mixtures.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5,126,573.

As stated above, the reference teaches a mixture of 20-100% $\text{Gd}_2\text{O}_2\text{S:Tb}$ and 0-80 wt% of $(\text{Zn,Cd})\text{S:Ag}$. These amounts encompass and overlap those claimed. Product claims with numerical ranges which overlap prior art ranges were held to have been obvious under 35 USC 103. *In re Wertheim* 191 USPQ 90 (CCPA 1976); *In re Malagari* 182 USPQ 549 (CCPA 1974); *In re Fields* 134 USPQ 242 (CCPA 1962); *In re Nehrenberg* 126 USPQ 383 (CCPA 1960). Also see MPEP 2144.05. The reference teaches the claimed mixtures.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5,126,573 in view of U.S. patent 4,455,323.

As stated above, U.S. patent 5,126,573 teaches a mixture of 20-100% $\text{Gd}_2\text{O}_2\text{S:Tb}$ and 0-80 wt% of $(\text{Zn,Cd})\text{S:Ag}$ in a bonding agent. The reference does not teach the amount or composition of the bonding agent. The mixture is used to form an X-ray luminescent screen, which suggests to one of ordinary skill in the art that the bonding agent and amount can be any known bonding agent and amount conventionally used to form an X-ray luminescent screen. U.S. patent 4,455,323 teaches compositions conventionally used to form X-ray luminescent screen and that these mixture contain 50-99 wt% phosphor and about 1-50 wt% bonding agent and that the bonding agent is any of those in column 3, lines 52-62. Thus one of ordinary skill in

Art Unit: 1793

the art would have found it obvious to use the conventional amounts and bonding agents of U.S. patent 4,455,323 in the mixture of U.S. patent 5,126,573. The taught binders include polyesters and polymethyl methacrylates and thus the references suggest the claimed optical cement. The suggested mixture contains about 1-50 wt% binder, 0 to about 79 wt% (Zn,Cd)S:Ag and 10-99 wt% Gd₂O₂S:Tb. These amounts encompass and overlap those claimed. Product claims with numerical ranges which overlap prior art ranges were held to have been obvious under 35 USC 103. *In re Wertheim* 191 USPQ 90 (CCPA 1976); *In re Malagari* 182 USPQ 549 (CCPA 1974); *In re Fields* 134 USPQ 242 (CCPA 1962); *In re Nehrenberg* 126 USPQ 383 (CCPA 1960). Also see MPEP 2144.05. The references teach the claimed mixtures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Koslow whose telephone number is (571) 272-1371. The examiner can normally be reached on Monday-Friday from 8:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at (571) 272-1233.

The fax number for all official communications is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/cmk/
October 19, 2009

/C. Melissa Koslow/
Primary Examiner
Art Unit 1793